

should be so lucky to have a Corey Tellez on their staff.

Corey joined my staff nearly 11 years ago as my economic policy adviser. Her first assignment was to help craft and build support for a bill called the Marketplace Fairness Act. Here was the goal: give Main Street businesses across America, mom-and-pop shops, a level playing field on which to compete against the giant online retailers by giving States the option to require out-of-State businesses to collect sales tax on online sales, the same way local businesses do.

The big online retailers resisted. Corey would not back down. She worked with the staff in the offices of our main cosponsors—Senators Mike Enzi, Heidi Heitkamp, and Lamar Alexander—and together they came up with a solution that won support on both sides of the aisle and even won the support of some of the giant retailers.

In 2013, the Marketplace Fairness Act passed the Senate. Corey was still working on getting the bill signed into law when, to our surprise, in 2018, the Supreme Court issued a ruling negating the need for it by giving the States the same option our bill created.

Corey had made her mark, and she became a critical part of our legislative team. Six years ago, I moved her up to be my legislative director. Three years ago, she became my deputy chief of staff.

At the end of last year, to my disappointment, she announced she was moving on from the Senate for a new opportunity, working for the Department of the Treasury in their congressional relations office. She is returning to the field she loves, with a special emphasis on international economic policy. I have no doubt she is going to be successful just as she was in the Senate.

Corey first came to the Hill 15 years ago, working in the Congressional Hispanic Caucus as an intern to the office of Representative HENRY CUELLAR of Texas. She already had a degree in political science and history and a law degree from the University of Illinois.

She worked on the House side as a legislative assistant for Representative Carolyn McCarthy of New York and as deputy chief of staff and counsel for Representative Debbie Halvorson of Illinois.

It is an impressive resume, but I think that Corey has put as much effort and passion into advancing the careers of others as she has her own. My own staff is filled with talented men and women whom she encouraged and gave a chance to grow professionally.

There is a danger, when you work with policy and dry legislative text for a long time, that you might forget the people whose hopes and dreams ride on the laws we enact. That never was a problem for Corey. While growing up, Corey's mom was a single mother.

She views every bill and every initiative through the eyes of a proud, hard-working American, just like her mom.

Basically, she has two basic questions when it comes to these issues: Are they true to the Constitution? Do they treat working families with fairness and dignity? That was her litmus test for any legislative undertaking. I can't think of a better one.

Since joining my staff, she became a mother too. She and her husband are parents to a little daughter, Elliott.

With her move to her next exciting assignment, I want to say again: Thank you, Corey, for all that you have given our office, the Senate, and our State of Illinois. I am wishing you the very best of luck in your new position.

#### JOHNSON & JOHNSON BANKRUPTCY

Mr. President, what would a great corporation do, one that is just so identified with America that new parents trust their products and the work they do with the health of themselves and their brandnew baby?

When you think back, for many of us, to when we became fathers, there was hardly a time when we didn't have, holding in our hands, Johnson & Johnson's Baby Powder. It clouded the room as we sprinkled it all over our babies and knew that it was just the right thing because others before us, other generations, had used the same product.

What is a company like Johnson & Johnson to do, then, when it turns out that there was an ingredient in that talcum powder that was dangerous? Asbestos. Literally, asbestos. Well, it turns out they knew about it. They knew there was asbestos in Johnson & Johnson Baby Powder long before the lawsuits were filed.

So what does a corporation worth \$450 billion do when they discover that the product that they had been selling for generations to trusting American families was actually a danger and was now being connected to cancers and mesothelioma?

Years ago, there was a great folk singer in America known as Woody Guthrie. He said there are two ways to get robbed. "Some will rob you with a gun, some with a fountain pen."

There are two systems in America, and Johnson & Johnson bears that out. There is a justice system for rich, powerful people and corporations, and then there is a justice system for everybody else. And many days, it seems that the gulf between these two systems is just getting wider and deeper.

There is something called the Texas two-step. It used to be just a dance step, but in recent years, it has taken on a new meaning, and it relates directly to Johnson & Johnson. It is a name given to a highly controversial form of legal strategy that some of the biggest corporations are using to shield their assets from accountability. It allows massively wealthy corporations whose products caused harm to avoid paying damages to the victims.

Not just that, the Texas two-step denies the victims their right to make their case in court and take their issue to a jury or a judge. And it can stretch

the process of seeking justice out for years and years and years, while victims get sicker and die.

Does that sound like justice? It doesn't sound like American justice. It sounds like somebody getting robbed with a fountain pen.

A big law firm that is credited with dreaming up this Texas two-step charges over \$1,000 an hour to advise large corporations on how to perform this maneuver.

But we received a lesson on the Texas two-step in our committee last week for free.

The Judiciary Committee's Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights held the first ever Senate hearing on the Texas two-step. We heard from experts just how it works. We also heard from one of its victims, Ms. Kimberly Naranjo, who has been given a fatal diagnosis from the lung disease mesothelioma. The name of that corporation she believes caused her illness: Johnson & Johnson.

Here is what we heard about how the Texas two-step works now, in a nutshell. Here is a big corporation like Johnson & Johnson that is being sued because it sold a dangerous product or it is likely to be sued for causing harm to victims. Well, they take their corporation and reincorporate in the State of Texas and execute what is called a "divisive merger." They cut their corporation not in half but legally in half.

In a traditional merger, two companies become one. With a divisive merger, it is just the opposite: One company becomes two. The original company keeps all the wealth, all the assets, and all the operations. The new company, created in this Texas procedure, is really just a shell. It receives the original company's debts and liabilities and a small trust fund.

The new company then reincorporates and turns around and files for bankruptcy in a jurisdiction where it is hard to get a bankruptcy filing dismissed for bad faith. This bankruptcy filing prompts a stay of litigation by people like Ms. Naranjo. The stay of litigation applies to both the shell company and the original company. So instead of being able to seek justice in a court of law for injuries, perhaps fatal injuries, victims are forced to try to recover from this newly created shell company that was made up in a bankruptcy court. How long does that take? Years. Sadly, for many of these victims, they don't have years.

As the victims wait for some measure of justice in bankruptcy court, the original company goes about its business. It has shielded all its assets, passed its liabilities off in divisive merger to a shell corporation. The good corporation, so to speak, or the rich corporation ends up with no liabilities, admitting no wrongdoing.

Under the laws of most States, companies cannot move assets around like this through divisive mergers, but you can do it in Texas, hence the nickname

the Texas two-step. So, step 1, create a shell company and transfer your legal liabilities; step 2, have the new company immediately declare bankruptcy.

So far, four major corporations have used the Texas two-step and bankruptcy to try to avoid legal accountability for their own wrongdoing.

The case that the subcommittee examined last week involved the healthcare and pharmaceutical giant Johnson & Johnson, the maker of Johnson's baby powder. As I mentioned earlier, how many of us fathers, mothers, and kids changing diapers did it in a cloud of Johnson & Johnson's baby powder?

For years, Johnson & Johnson denied the story that its products contained asbestos. We know that substance can cause cancer and mesothelioma. Then it claimed that any amount of asbestos in its baby powder was just too small to cause any harm. But internal company documents at Johnson & Johnson obtained through discovery told a different story. They showed that Johnson & Johnson knew of tests going back decades which found the presence of asbestos in their products. While they were actively advertising the use of this product by adults for use on our babies, they knew there was asbestos in their product.

In 2018, a jury in Missouri ruled in favor of 22 women who attributed their ovarian cancer to Johnson & Johnson talc products. The women won an award of \$2 billion. Remember that number: 22 women in Missouri, an award of \$2 billion.

Today, there are an estimated 38,000 people with ovarian cancer or mesothelioma who have sued Johnson & Johnson, alleging that the company's talc products caused their illness, but Johnson & Johnson's use of this Texas two-step divisive bankruptcy means that these 38,000 cancer victims are no longer able to bring their claims against the company. They have lost their right to have their case heard in court because Johnson & Johnson, this giant company, has created a bankruptcy in a shell corporation that has absorbed all of the legal liabilities of the original Johnson & Johnson. So anybody who wants to sue them now has to get in line in bankruptcy court with all the creditors and alleged victims and wait and hope there will be a day when some fraction of the trust fund that Johnson & Johnson gave to its shell company when it spun it off and loaded it down with legal liabilities may provide some relief. The chances: next to none.

Stick with me and do the math. We ended up with two companies. Once, it was just Johnson & Johnson, and then two companies emerged out of the bankruptcy court in Texas. The one company with the liabilities—the one you can actually sue if you can get into court—they created a trust fund for that company of \$2 billion. They have 38,000 outstanding claims. Twenty-women women in Missouri recovered

\$2 billion from them already, so you know that 38,000 people are not going to go very far with \$2 billion total. What is left in the other fat corporation—profitable corporation, big corporation—in that bankruptcy division? More than \$430 billion. Johnson & Johnson stuck all of its assets into more than the healthy corporation that can't be sued and left \$2 billion for all of these victims of its dangerous product. What a cynical move for a company to make.

Kimberly Naranjo, a mother of seven, is one of those 38,000 Americans who will lose her right to sue Johnson & Johnson and be forced to wait in line in bankruptcy court for some sliver of justice.

She testified at last week's hearing. Her story is not an unusual one. Ms. Naranjo grew up surrounded by addiction and abuse. She moved from one foster family to another. She had her first baby when she was 19 years old. She used Johnson's baby powder on all seven of her children. It was, she said, "that white plastic bottle that I associated with motherly love."

That was the same message Johnson & Johnson used in its baby ads. They used to say their product "feels like love."

Ms. Naranjo started her dream job. But a week later, she felt a pain in her side. She went to the doctor and, sadly, learned she has mesothelioma. She was told she had 12 to 16 months to live. She knows she can't beat mesothelioma. Nobody does. All she wants is a chance to make her case in court before she dies so she can leave something to her kids.

So she came to Washington to testify before us in that Judiciary subcommittee last week, her voice representing thousands of cancer victims who went through exactly what she did, exposing themselves to Johnson & Johnson's dangerous product. I commend her and thank her for her courage. She is fighting for her kids and all the other victims, incidentally, whose voices would be silenced by this Texas two-step bankruptcy. As she said in her testimony, "I don't have much time left, but I will not quit."

Over the past few months, I decided to write to Johnson & Johnson. This is a company that used to take such pride in their products. I remember all through my life the advertising associated with their products: wholesome, safe help for families. I wrote to the former CEO and the current CEO, and I urged them to change course, back way from this Texas two-step, abandon this cynical scheme, and hold yourself accountable to the people who trusted your product. I urged Johnson & Johnson to live up to its reputation of being a company that family and consumers can trust. Sadly, they ignored me.

This week, a bankruptcy court is considering a motion by talc claimants to dismiss the bankruptcy of the shell company that Johnson & Johnson spun off to unload its legal liabilities. It is a

key test of this Texas two-step and whether wealthy corporations continue to abuse chapter 11 bankruptcy to dodge their legal obligations to victims like Ms. Naranjo.

It is not just lawmakers like me who believe that the Texas two-step can deprive victims like her of their day in court; listen to what the author of the Texas divisive merger statute, Steven Wolens, said earlier this week about the law that brought the Texas two-step to life: "Had we known in 1989 that [the] provisions could be dubiously interpreted for entities to avoid known liabilities such as those causing severe and permanent injuries and deaths, [the law] would never have passed with the 'Texas two-step' provision. Never, never, never."

Mr. Wolens also said: "Shame on [Johnson & Johnson] for trying to evade its liabilities for products it sold with its golden stamp of approval for safety."

When a legislator like Mr. Wolens publicly states that the company is intentionally misusing the law he wrote, I don't think there is any room for uncertainty or equivocation; this is a shameful, indefensible strategy on the part of Johnson & Johnson.

I hope the courts reject Johnson & Johnson's abuse of bankruptcy laws, but I also believe Congress needs to do something. We need to close this loophole for good.

In July last year, I joined two of my colleagues, ELIZABETH WARREN and RICHARD BLUMENTHAL, in cosponsoring legislation which would rein in various bankruptcy loopholes like the Texas two-step. I am committed to working toward this goal. I hope Democrats and I hope Republicans can work together on a bipartisan basis to stop this bankruptcy abuse. Bankruptcy is supposed to be a good-faith way to accept responsibility, pay one's debts as best you can, and then receive a second chance—not a Texas two-step, get-out-of-jail-free card for some of the wealthiest corporations on Earth, like Johnson & Johnson.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PADILLA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### INFLATION

Mr. THUNE. Mr. President, the AP headline from last Thursday said it all: "U.S. inflation highest in 40 years, with no letup in sight"—with no letup in sight. That is life in the Democrats' America. In January, U.S. inflation hit 7½ percent—the highest inflation since February of 1982. Inflation has now been above 5 percent for the last 8 months.

There are people raising families today who have never experienced this